

IN THE MATTER OF
SPENCER E NICHOLS DPM

98-088

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BEFORE THE TEXAS STATE
BOARD OF PODIATRIC
MEDICAL EXAMINERS

SITTING IN AUSTIN

LICENSE NO. 0991

TRAVIS COUNTY, TEXAS

AGREED BOARD ORDER

BE IT REMEMBERED that on 08/21/98, came on to be considered the allegations against Spencer Nichols D.P.M. By letter dated May 8, 1998, the Texas State Board of Podiatric Medical Examiners Board gave preliminary notice to Dr. Nichols of its intent to investigate complaints, concerns, or reports filed against him. Dr. Nichols was duly notified of the allegations against him. Dr. Nichols has cooperated with the Board.

This order is executed under the authority of the Podiatric Medical Practice Act of Texas, Tex. Rev. Civ. Stat. Ann., Art. 4573d, which allows contested cases to be resolved informally. Dr. Nichols, agrees to waive his rights to a formal hearing on this matter upon the signing of this order.

Dr. Nichols agrees to the following order and agrees to the findings of fact, the conclusions of law and the order set out herein:

FINDING OF FACT

1. Dr. Nichols is licensed as a podiatric physician in the State of Texas by the (License Number 0991) to practice podiatric medicine in the State of Texas and is therefore subject to the jurisdiction of the Board, the Podiatric Medical Practice Act and the rules of the Board.
2. A complaint was filed against Dr. Nichols and he was provided with an opportunity to respond to the complaint and to show compliance with the law.
3. Dr. Nichols, as a podiatrist licensed in the State of Texas, must comply with the provisions of the Texas Podiatric Medical Practice Act of Texas, the Board rules and Board orders.
4. After discussion of the matters outlined in this Order, and subsequent communications between Dr. Nichols and Board staff, the Board and Dr. Nichols, in order to avoid the expense, delay and uncertainty of a hearing, have agreed to the entry of an Agreed Order, dispensing with the need for further action in this matter. By his signature on the Order, Dr. Nichols does hereby waive his right to a formal hearing before the State Office of Administrative Hearings, and judicial review of the Order.
5. Dr. Nichols, was negligent in the care of his patient by indicating in his records that he removed five (5) lesions when he only removed one and by indicating that a skin graft was applied to the patient, when one was never found, and by his fraudulent billing and up-coding, and exhibiting grossly unprofessional or dishonorable conduct in his practice.

CONCLUSIONS OF LAW

1. Dr. Nichols is required to follow the provisions of the Podiatric Medical Practice Act, Tex. Civ. Stat. Ann., Art. 4567, et. seq., and associated rules of the Board.
2. Art. 4573 (b) and Ch. 376, 22 Tex. Admin. Code provides for the disciplining of a licensee who violates this Board's statute and/or rules.

3. Dr. Nichols made a poor choice in surgical procedures while practicing podiatry; therefore, he was as in violation of the Texas Podiatric Medical Practice Act, Tex. Civ. Stat. Ann., Art. 4570 (d) (4) (5) and (16), and Section 375.2 (a) and (b) of Title 22 of the Texas Administrative Code.

ORDER

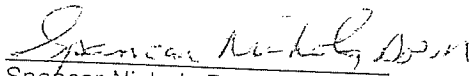
THEREFORE, PREMISES CONSIDERED, This orders and Dr. Nichols agrees to the following:

1. Dr. Nichols is to pay a fine of \$500.00 (five hundred dollars), by check made payable to the Texas State Board of Podiatric Medical Examiners.
2. The fine is due within 30 days of formal notice by this State Board of this Order.
3. Failure to complete this agreement within this time will result in a \$100.00 (one hundred dollars) per day fine.

This order does not prohibit the Texas State Board of Podiatric Medical Examiners from exercising its regulatory functions.

I, Spencer Nichols D.P.M., have read and understand the foregoing Agreed Order. I understand that by signing, I waive certain right to a formal hearing before the State Office of Administrative Hearings and judicial review of this order. I sign it voluntarily.

I understand this agreed order contains the entire agreement between the parties and there is no other agreement of any kind, verbal, written, or otherwise. **THIS ORDER IS A PUBLIC RECORD.**


Spencer Nichols D.P.M.

7-28-98
Date

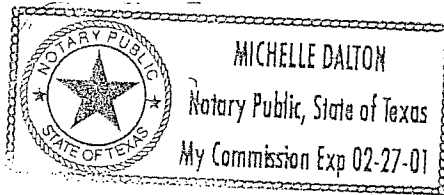
STATE OF TEXAS

COUNTY OF Brown

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BEFORE ME, on this day personally appeared Spencer Nichols D.P.M. known to be who first being duly sworn, signed the foregoing Agreed Order in my presence.

SIGNED on this the 28th day of July, 1998.



Michelle Dalton
Printed Name of Notary Public

Michelle Dalton
Notary Public, in and for the State
of Texas

SIGNED AND ENTERED by the Presiding Officer of the Texas State Board of Podiatric Medical Examiners on this the 21st day of AUGUST, 1998.

W. Preston Goforth
W. Preston Goforth, D.P.M.
President, Texas State Board of
Podiatric Medical Examiners